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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,833	04/24/2006	Nels R. Smith	026032-5052	2281
23428 7590 02/18/2010 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				
EXAMINER				
VO, HAI				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
02/18/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/576,833

**Applicant(s)**

SMITH ET AL.

**Examiner**

Hai Vo

**Art Unit**

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 26-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/200)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

1. The art rejections over Pokorzynski et al. (US 2002/0125734) have been withdrawn in view of the present amendment. The cited reference fails to teach or suggest the first and second soft regions each defining an exposed surface of the component that is configured to be interfaced by a vehicle occupant. However, the art rejections and provisional double patenting rejections over Johnson et al. (US 2007/0029829) are maintained.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 26-30 and 32-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Johnson et al. (US 2007/0029829). Johnson discloses a component for a vehicle interior comprising: a flexible skin 222 having a flange that extends substantially entirely about the periphery of the skin; a compressible material 240 coupled to the skin; a rigid substrate 230 having grooves 234 that define an area; wherein the flange of the skin are coupled to and embedded in the grooves of the substrate 230 which provides a visual boundary defined by the groove and extends substantially entirely about the periphery of the area over which the skin is provided; wherein the compressible material is located between

the skin and the substrate and is configured to provide a first soft region (figures 1, 2, 4 and 5). The boundary is filled in to provide the appearance of a seamless transition between the skin and the substrate (paragraph 31). The substrate is injection molded of a polypropylene material (paragraph 21). The skin is a vacuum formed and trimmed sheet of a thermoplastic olefin material (paragraph 23). The second soft region is defined by a portion of the skin in direct contact with the substrate (paragraph 20). The component is provided with localized regions of cushioning while retaining the look and feel of the skin in the regions without the cushioning (paragraphs 5, 18, 20; figures 1 and 11). This is a clear indication that both the first and second soft regions, each defining an exposed surface, are configured to be interfaced by a vehicle occupant. The flange comprises a folded back configuration (paragraph 34). Accordingly, Johnson anticipates the claimed subject matter.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (US 2007/0029829) as applied to claim 1 above, and further in view of Pokorzynski et al. (US 2002/0125734). Johnson does not teach a compressible material that is closed cell foam Pokorzynski discloses a component for a vehicle

interior comprising: a flexible skin 25 having a flange 30 that extends substantially entirely about the periphery of the skin; a compressible material 35 coupled to the skin; a rigid substrate 8 having grooves 42 that define an area; wherein the flange of the skin are coupled to and embedded in the grooves of the substrate 18 which provides a visual boundary defined by the groove and extends substantially entirely about the periphery of the area over which the skin is provided; wherein the compressible material is located between the skin and the substrate and is configured to provide a first soft region (figures 1 and 2). The substrate is injection molded of a polypropylene material (claim 17). The compressible material is a closed cell foam (paragraph 11). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a closed cell foam for the compressible material motivated by the desire to provide some measure of support and a soft feel to the trim assembly.

6. The art rejections over Johnson have been maintained for the following reasons. Applicants contend that Johnson fails to teach or suggest both the first and second soft regions, each defining an exposed surface of the component that is configured to be interfaced by a vehicle occupant. The examiner respectfully disagrees. The component is provided with localized regions of cushioning while retaining the look and feel of the skin in the regions without the cushioning (paragraphs 5, 18, 20; figures 1 and 11). This is a clear indication that both the

first and second soft regions are defining exposed surfaces and configured to be interfaced by a vehicle occupant.

### ***Double Patenting***

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 26-30, and 32-34 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-29, and 34-40 of copending Application No. 10/575,436. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the '436 application teach each and every limitation of the claimed invention except that both the first and second soft regions are exposed surfaces configured to be interfaced by a vehicle occupant. However, the examiner notes

that the component is provided with localized regions of cushioning while retaining the look and feel of the skin in the regions without the cushioning (paragraphs 5, 18, 20; figures 1 and 11). This is a clear indication that both the first and second soft regions each defining an exposed surface of the component that is configured to be interfaced by a vehicle occupant. It appears that the '436 application uses the same materials and the same approach to form the vehicle component as the present invention. Therefore, it is not seen that the first and second soft regions each defining an exposed surface of the component that would or could not be configured to be interfaced by a vehicle occupant.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

9. Claim 31 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 34-40 of copending Application No. 10/575,436 in view of Pokorzynski et al. (US 2002/0125734). Johnson does not teach a compressible material that is closed cell foam and Pokorzynski discloses a component for a vehicle interior comprising: a flexible skin 25 having a flange 30 that extends substantially entirely about the periphery of the skin; a compressible material 35 coupled to the skin; a rigid substrate 8 having grooves 42 that define an area; wherein the flange of the skin are coupled to and embedded in the grooves of the substrate 18 which provides a visual boundary defined by the groove and extends substantially entirely about the periphery of the area over which the skin is provided; wherein the compressible

material is located between the skin and the substrate and is configured to provide a first soft region (figures 1 and 2). The substrate is injection molded of a polypropylene material (claim 17). The compressible material is a closed cell foam (paragraph 11). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a closed cell foam for the compressible material motivated by the desire to provide some measure of support and a soft feel to the trim assembly.

10. The provisional obviousness-type double patenting rejections have been maintained for the following reasons. Applicants aver that the '436 does not teach or suggest both the first and second soft regions, each defining an exposed surface of the component that is configured to be interfaced by a vehicle occupant. The examiner respectfully disagrees. The component is provided with localized regions of cushioning while retaining the look and feel of the skin in the regions without the cushioning (paragraphs 5, 18, 20; figures 1 and 11). This is a clear indication that both the first and second soft regions each defining an exposed surface of the component that is configured to be interfaced by a vehicle occupant. Further, it appears that the '436 application uses the same materials and the same approach to form the vehicle component as the present invention. Therefore, it is not seen that the first and second soft regions each defining an exposed surface of the component that would or could not be configured to be interfaced by a vehicle occupant. In addition, as pointed out by Applicants, the '436 application is a later-filed application. Accordingly, the provisional



obviousness-type double patenting rejection will not be withdrawn until it is the only rejection remaining in the Office Action of the present invention (MPEP 804, B1).

11. Claims 26-30, and 32-34 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 25-29 of copending Application No. 10/585,037. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the '0376 application teach each and every limitation of the claimed invention except that both the first and second soft regions, each defining an exposed surface that is configured to be interfaced by a vehicle occupant. However, the examiner notes that the component is provided with localized regions of cushioning while retaining the look and feel of the skin in the regions without the cushioning (figures 1 and 2). This is a clear indication that both the first and second soft regions each defining an exposed surface of the component that is configured to be interfaced by a vehicle occupant. It appears that the '037 application uses the same materials and the same approach to form the vehicle component as the present invention. Therefore, it is not seen that the first and second soft regions each defining an exposed surface of the component that would or could not be configured to be interfaced by a vehicle occupant.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

12. Claim 31 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 34-40 of copending Application No. 10/585,037 in view of Pokorzynski et al. (US 2002/0125734). The '037 application does not teach a compressible material that is closed cell foam. Pokorzynski discloses a component for a vehicle interior comprising: a flexible skin 25 having a flange 30 that extends substantially entirely about the periphery of the skin; a compressible material 35 coupled to the skin; a rigid substrate 8 having grooves 42 that define an area; wherein the flange of the skin are coupled to and embedded in the grooves of the substrate 18 which provides a visual boundary defined by the groove and extends substantially entirely about the periphery of the area over which the skin is provided; wherein the compressible material is located between the skin and the substrate and is configured to provide a first soft region (figures 1 and 2). The substrate is injection molded of a polypropylene material (claim 17). The compressible material is a closed cell foam (paragraph 11). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a closed cell foam for the compressible material motivated by the desire to provide some measure of support and a soft feel to the trim assembly.

### ***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (571) 272-

1485. The examiner can normally be reached on Monday through Thursday, from 9:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie Shosho can be reached on (571) 272-1123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hai Vo/  
Primary Examiner, Art Unit 1794